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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,651	03/29/2004	Mark D. Yarvis	ITL1954US (P18388)	3419
47795 7590 08/18/2010 TROP, PRUNER & HU, P.C. 1616 S. VOSS RD., SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER ABRISHAMKAR, KAVEH				
ART UNIT		PAPER NUMBER		
2431				
MAIL DATE		DELIVERY MODE		
08/18/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/812,651

**Applicant(s)**

YARVIS, MARK D.

**Examiner**

KAVEH ABRISHAMKAR

**Art Unit**

2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 14, 16, 17, 19, 20, 26, 28, 29, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 14, 16, 17, 19, 20, 26, 28, 29, 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8 is/are rejected.
- 7) ☒ Claim(s) 4-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Proficiency's Patent Drawing Review (PTO-544)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the Appeal Brief filed on May 28, 2010. Claims 1-8, 14, 16, 17, 19, 20, 26, 28, 29, 31 and 32 are currently pending consideration.

2. In view of the Appeal Brief filed on May 28, 2010 PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/William R. Korzuch/

Supervisory Patent Examiner, Art Unit 2653.

***Allowable Subject Matter***

Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8, 14, 16, 17, 19, 20, 26, 28, 29, 31 and 32 are allowed.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 and 8 are rejected under 35 U.S.C. 112, first paragraph, because the claim is interpreted as being a single means claim. The claim which discloses an apparatus with only a single means (a detector) does not appear in combination with another recited element of means, and is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983). In this instance, the detector is interpreted as a means recitation, and since the detector does not appear in combination with another recited element of means, it is subject to the 112 first paragraph rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Aupperle et al. (U.S. Patent 6,992,574).

Regarding claim 1, Aupperle discloses:

An apparatus, comprising:

a detector (column 5, lines 1-6: *determine whether the identities match*) to determine whether a first radio frequency identification tag read by a reader (column 3, lines 22-24: *RFID reader/interrogator*) that reads radio frequency identification tags is a match with a second radio frequency identification tag read by said reader (column 3, lines 24-30, column 4, lines 4-18, column 4, line 60 – column 5, line 6: *interrogates at least two RFID tags, read data from the tags and determine if the tag data matches*).

Claim 2 is rejected as applied above in rejecting claim 1. Furthermore, Aupperle discloses:

An apparatus as claimed in claim 1, wherein one of the first and second radio frequency identification tags is a lock tag, and another of the first and second radio frequency tags is a key tag (column 3, lines 42-52, column 5, lines 53-67: *wherein one of the programmed RFID tags can be coupled to the ticket (lock tag since it allows*

*access to the event) and another RFID would be coupled to the seat number (key tag since it gives the patron access to a particular seat)).*

Claim 3 is rejected as applied above in rejecting claim 1. Furthermore, Aupperle discloses:

An apparatus as claimed in claim 1, wherein one of the first and second radio frequency identification tags is a lock tag, and another of the first and second radio frequency identification tags is a key tag (column 3, lines 42-52, column 5, lines 53-67: *wherein one of the programmed RFID tags can be coupled to the ticket (lock tag since it allows access to the event) and another RFID would be coupled to the seat number (key tag since it gives the patron access to a particular seat)), and wherein said detector authenticates the lock tag when said detector detects the lock tag and the key tag being within a predetermined distance of said detector (column 5, lines 55-65: *when the ticket passes near the RFID scanner, a green light can indicate whether the spectator has picked the proper section (authenticates the lock tag)).**

Claim 8 is rejected as applied above in rejecting claim 1. Furthermore, Aupperle discloses:

An apparatus as claimed in claim 1, wherein said detector determines whether the first radio frequency identification tag is a match with the second radio frequency identification tag or a third or more radio frequency identification tags (column 3, lines 24-36: *at least two RFID tags coupled to respective objects).*

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAVEH ABRISHAMKAR whose telephone number is (571)272-3786. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. A./  
Primary Examiner, Art Unit 2431

/Kaveh Abrishamkar/  
08/14/2010  
Primary Examiner, Art Unit 2431